IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 27TH OCTOBER 2006 / 5TH KARTHIKA 1928

OP.No. 10382 of 2001(J)

PETITIONER:

REMA.M., D/O.CHANDRASEKHARA KURUP,
1/132, KAILAS,
GURUVAYOORAPPAN COLLEGE P.O.,
CALICUT-14.

BY ADV. SRI.R.SUDHISH
SMT.MANJU SUDHISH

RESPONDENTS:

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1. STATE OF KERALA REP. BY ITS SECRETARY, REVENUE DEPARTMENT, TRIVANDRUM.

2. SPECIAL DEPUTY TAHSILDAR (ARREARS COLLECTION), KOZHIKODE.

3. DISTRICT COLLECTOR, KOZHIKODE.

BY G.P. SRI.SHYSON P.MANGUZHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 27/10/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NOS.16682/2001 & 10945/2002 IN O.P. NO.10382/2001

DISMISSED:

27.10.2006 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: A COPY OF THE PROCEEDINGS FROM THE OFFICE OF THE REVENUE MINISTER DT.13.3.2001.

P2: A COPY OF THE PROCEEDING TO ATTACH THE PROPERTY OF THE PETITIONER ISSUED BY R2 DT.24.2.2001.

P3: A COPY OF THE REPLY SUBMITTED BY PETITIONER TO R2 DT.8.3.2001.

P4: COPY OF NOTICE ISSUED BY R2 DT.7.3.2001.

P5: COPY OF RECEIPT SHOWING THE PAYMENT DT.2.3.2001.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.10382 of 2001

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Dated this the 27th day of October, 2006.

JUDGMENT

The petitioner is challenging recovery proceedings for recovery of arrears of telephone charges due from petitioner's husband. The O.P. happened to be filed because the defaulter transferred the property in petitioner's name and therefore, the transferred property is attached. It is not known whether the transfer is effected after initiation of revenue recovery proceedings. In any case under Section 53 of the Transfer of Property Act transfers made to defraud creditors is void. In the circumstances, the property transferred by the defaulter to his wife, the petitioner herein, is obviously to insulate the same from recovery proceedings. Therefore, respondents are entitled to proceed for recovery by attachment and sale of property. However, since O.P. is pending for the last five years, I feel the petitioner or the defaulter as the case may be, can be granted an opportunity to settle the telephone charges without any interest provided the full amount is paid on or before 31.1.2007. However, if petitioner commits default in payment, then the waiver of interest granted herein will stand automatically vacated and

respondents will proceed for sale of the attached property.

The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms